Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/11081/2014

THE IMMIGRATION ACTS

Heard at Birmingham	**Decision and Reasons Promulgated**
On 23 July 2015	**On 29 July 2015**

Before

UPPER TRIBUNAL JUDGE PITT
DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

MN
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Howard, Fountain Solicitors
For the Respondents: Mr Smart, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision promulgated on 11 February 2015 of First-tier Tribunal Judge Raikes which refused the appellant's asylum and human rights claims.

2. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) We make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. We do so in order to avoid a likelihood of serious harm arising to the appellant from the contents of the protection claim.

3. The appellant is from Ethiopia. It was common ground before us that he is of Oromo ethnicity.

4. The First-tier Tribunal found that the appellant's account of his own and his father's involvement with the Oromo Liberation Front (OLF) lacked any credibility. That aspect of the findings was not challenged before us.

5. The appellant's grounds of appeal against the decision of the First-tier Tribunal were that Judge Raikes failed to deal adequately with:

    a. the appellant's *sur place* claim

    b. risk on return as someone of Oromo ethnicity who has attended anti-government protests in the UK

    c. Article 8 where the country evidence showed, at the lowest, discrimination against Oromos

6. We did not find merit in any of the appellant's grounds.

7. The appellant's *sur place* claim was founded on attending a demonstration in London in December 2014 and another demonstration in Birmingham. He provided photographs of himself at the London demonstration.

8. The First-tier Tribunal dealt with this part of the claim at [33], stating:

> "I have also noted that both demonstrations were after his asylum interview and whilst he was awaiting his appeal. I find given the circumstances that the photographs are wholly self-serving. I find that they have been produced only in order to support his claim for asylum in another form."

9. The appellant objects to that paragraph, maintaining that there is no clear finding as to whether he attended the demonstrations or not. We did not see anything in that submission. To our minds, a proper reading of the passage cited is that the First-tier Tribunal judge accepted that the appellant attended the demonstrations but did not do so in good faith, the real reason being only in order to try to found an asylum claim.

10. A lack of good faith or genuine political belief, of course, does not preclude a claimant from international protection; see Danian v SSHD [2002] Imm AR96 , YB (Eritrea) v SSHD [2008] EWCA Civ 360, SS (Iran) v SSHD [2008] EWCA Civ 310 and BA (Demonstrators in Britain – risk on return) Iran CG [2011] UKUT 36 (IAC). The malign profile of some regimes allows for adverse interest even where *sur place* activities are conducted in bad faith.

11. There remained a number of difficulties for this appellant in making out such a case, however. Firstly, Judge Raikes made a clear finding of bad faith. Secondly, the country evidence that was before the First-tier Tribunal did not show a high level of surveillance or monitoring of such demonstrations in the UK. There was evidence of control of the internet and other media within Ethiopia but nothing that could begin

to show a risk of the Ethiopian authorities knowing of the appellant's attendance at two demonstrations, let alone identifying him on return. Further, it has never been the appellant's case that the photographs of him at the demonstrations have even been placed on the internet or made public in any other way.

12. In addition, we could not identify anything in the materials before us that showed that the appellant would be questioned about any political activities on return, even where he is Oromo. We were referred to the comments of Dr Love at [42] of MB (OLF and MTA – risk) Ethiopia CG [2007] UKAIT 00030 which were as follows:

> "Dr Love considered that there was a chance that the appellant might be detained at the airport, in order to account for what he had been doing since he left in 1999, particularly given the current political climate."

13. We did not find that evidence sufficient to show that the authorities regularly stop returnees and question them on their activities abroad. No risk category of returnees or Oromo returnees was identified in MB. Given that this appellant's account of any political profile is not accepted and that, at best, he only left Ethiopia only 2 years ago, we did not find that he had shown that he would be at risk on return. As at [24] of SS (Iran):

> "It seems to me that it is not enough for such an applicant simply to establish, as here, that he was involved in activities which were relatively limited in duration and importance, without producing any evidence that the authorities would be concerned about them, or even that they would be aware of them."

14. The appellant's second challenge must also fail given the country evidence that was before the First-tier Tribunal. Certainly, someone of Oromo ethnicity with a profile or suspected of support for the Oromo cause may be at risk on return. The evidence does not go as far as indicating that all Oromos are at risk, however, or that returned Oromos are at risk.

15. It was also our conclusion that any Article 8 claim had to fail where the country evidence showed discrimination against Oromos but nothing sufficient to found a disproportionate interference with private life, that case being additionally difficult to make out here where the appellant has been in the UK for only 2 years and entirely unlawfully.

16. Mr Howard, quite sensibly, in our view, did not seek to take any further the final ground concerning what is clearly a typographic error in [26] of the determination which considered the appellant's inconsistent evidence on whether he was married.

Decision

16. The decision of the First-tier Tribunal discloses no error and shall stand.

Signed:  Date: 27 July 2015

Upper Tribunal Judge Pitt